IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLN.NO.1711 OF 2007
IN
SESSIONS CASE NO.320 OF 2007

Mohd.Parvez Pyarejan Shaikh ..Applicant

Vs.

State of Maharashtra ..Respondents

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Mr.E.B.Dixit i/b Yadav P.R. Advocate for Applicant
Mr.S.S.Pednekar A.P.P. for the State

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CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : JUNE 06, 2007

P.C.

1. Heard the learned advocate for the applicant and the learned A.P.P. for the State.

2. The applicant is seeking bail in C.R.No.361 of 2006 of Juhu Police Station, Mumbai. The said case is under Sections 498-A, 304-B r.w. 34 of IPC.

3. The applicant was the husband of deceased Nagma. Nagma died within two years of marriage. The cause of death as stated in the post mortem notes is "asphyxia" due to smothering and unknown and undetected poison.

4. The learned advocate for the applicant has submitted that the business of family of the applicant is that they plate various articles with silver or gold. He has stated that potassium cyanide is used in the process of plating of the articles and due to the fumes, Nagma may have died. He further submitted that the effect of cyanide is that it gives rise to an effect like smothering and hence, it cannot be said that the applicant was responsible for the death of Nagma but Nagma's death was on account of the process of plating articles, the side effect of which caused symptoms like smothering.

5. As far as the above contention is concerned, it is seen that neighbour of the applicant has stated that the applicant came to his house and stated that his wife Nagma had taken cyanide. Thereafter, Nagma was taken to the hospital, where she was declared dead. This statement of the neighbour would indicate that Nagma consumed cyanide and the death was certainly not on account of the cyanide fumes while work of plating was going on.

6. The learned A.P.P. stated that in fact after investigation, Section 302 of IPC came to be added

by the Investigating Agency. Whereupon, Mr.Dixit, the learned advocate for the applicant has submitted that it is not a case of murder but at the most, it would be a case of suicide. However, the post mortem note and the opinion relating to cause of death, shows that prima facie, it is a case of murder. It is mentioned therein that Nagma died on account of smothering, besides this, in the post mortem notes, it is mentioned that there were multiple injuries on her body including contusions over the face, on the mandible region and on the neck. The contusion on the neck was 3 cm x 3 cm. Besides that, there are injuries on the lower lip and abrasions on her face. The applicant was present in the house when the incident occurred. All the facts prima facie show that it is a case of murder. Looking to all these facts, I am not inclined to grant bail to the applicant.

Application is rejected.

5. The learned Judge shall not be influenced by any of the observations made in this order, while deciding the trial.

6. Application is disposed of.

[Smt. V.K.Tahilramani, J.]